

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

H.S.,

Plaintiff

v.

STROUDSBURG AREA SCHOOL,
DISTRICT and BRANDON W.
FLATLEY,

Defendants

No. 3:17cv1839

(Judge Munley)

FILED
SCRANTON

AUG 29 2019

Per 
DEPUTY CLERK

ORDER

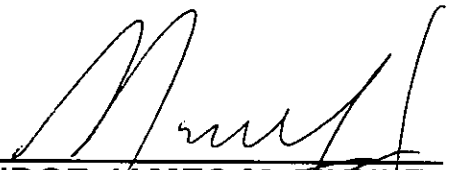
AND NOW, to wit, this 29th day of August 2019, we have before us the plaintiff's motion to strike Defendant Flatley's second motion to dismiss. (Doc. 48). In the first motion to dismiss the plaintiff's common law assault, Defendant Flatley sought to have Count II and Count V of the Plaintiff's complaint dismissed for failing to state a claim. In our opinion, we denied the defendant's motion to dismiss because the plaintiff sufficiently pled an assault, battery, and intentional infliction of emotional distress claim against Defendant Flatley by claiming that he engaged in various sexual actions that could be found to be outrageous. (Doc. 30). The plaintiff then filed an amended complaint (Doc. 32). On February 4, 2019, Defendant Flatley filed a second motion to dismiss (Doc. 44). The plaintiff filed a motion to strike this second motion to dismiss. (Doc. 48). The second motion to dismiss is identical to the motion to dismiss that we previously denied.

Therefore, we will deny Defendant Flatley's second motion to dismiss for the very same reasons we denied the first one.

It is hereby **ORDERED** as follows:

- 1) The plaintiff's motion to strike Defendant Flatley's motion to dismiss (Doc. 48) is **GRANTED**;
- 2) The plaintiff's request that Defendant Flatley pay the plaintiff's counsel the amount of \$105.00 for reimbursement of service fees is **DENIED**;
and
- 3) Defendant Flatley must file an answer to the plaintiff's second amended complaint (Doc. 32) within twenty-one (21) days of this Order.

BY THE COURT:


JUDGE JAMES M. MUNLEY
United States District Court